

## Notice of Proposed Rulemaking (NPRM) and Final FAR Rule: Comparison Chart

What are the most significant differences between the proposed and final FAR Rule?

	NPRM	Final
<b>Phase-In</b>	No phase-in specified	<p>There is a measured, phased-in process:</p> <ul style="list-style-type: none"> <li>▪ During the first six months the Rule is effective (i.e., October 25, 2016 – April 24, 2017) only disclosures from prospective prime contractors bidding on solicitations valued at \$50 million or more will be required</li> <li>▪ The disclosure reporting period will be limited to one year and gradually increase to three years by October 25, 2018</li> <li>▪ Subcontractors will be required to begin making disclosures one year after the Rule becomes effective (i.e., October 25, 2017)</li> <li>▪ The Paycheck Transparency clause will take effect January 1, 2017</li> <li>▪ Equivalent state laws (other than OSHA state plans) will be the subject of subsequent rulemaking</li> </ul>
<b>Subcontracting</b>	Contractors to obtain from subcontractors with whom they have contracts exceeding \$500,000 other than COTS items, the same labor compliance information that they must themselves disclose.	<p>The final rule requires subcontractors to disclose details regarding their labor law violations and remedial actions directly to DOL for review and assessment instead of to the prime contractor.</p> <p>The subcontractor then makes a representation back to the prime contractor regarding DOL's response to its disclosure. The prime contractor will then consider any response from DOL in evaluating the integrity and business ethics of subcontractors.</p> <p>Subcontractor Disclosures take effect October 25, 2017.</p>

	NPRM	Final
<b>Public Disclosure of Violation Information</b>	The NPRM did not specify whether labor law violation history would be made publicly available.	<p>The FAR Rule compels public disclosure of certain information about violations, and provides the contractors the option to publicly disclose mitigating factors.</p> <p>The disclosure reporting period will be limited to one year initially and gradually increase to three years by October 25, 2018.</p>
<b>Contract Remedies</b>	The NPRM was not specific about the use of contract remedies with the intent of bringing contractors into compliance with the covered labor laws.	<p>The final rule adopts additional language regarding use of remedies, with the intent of reinforcing the availability and consideration of less stringent remedies, such as documenting non-compliance in past performance or negotiating a labor compliance agreement, prior to the consideration of more severe remedies (e.g., terminating a contract, notifying the suspending and debarring officials).</p> <p>The final rule enumerates the ALCA's responsibility to encourage prospective contractors and contractors that have labor violations that may be serious, repeated, willful, and/or pervasive to work with DOL or other relevant enforcement agencies to discuss and address the violations as soon as practicable.</p> <p>The rule amends the policies addressing the assessment of past performance to recognize consideration of a contractor's labor law compliance – such as the number and types of violations, adherence to labor compliance agreements, and timely implementation of related remedial actions – and the extent to which the prime contractor addressed labor law violations by its subcontractors.</p> <p>The final rule addresses the use of labor compliance agreements, clarifying the timeframe for developing a labor compliance agreement and parties involved. It also speaks to the basic obligations between the contractor and the contracting officer where the need for a labor compliance agreement has been identified by the ALCA.</p>